

GENERAL NOTES

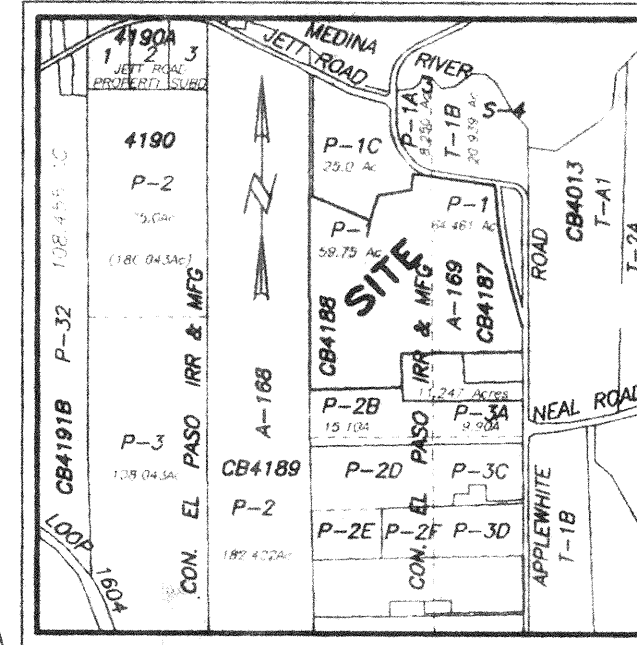
1. o - INDICATES PROPERTY CORNER
2. EXISTING CONTOUR LINES ARE SHOWN AT AN INTERVAL OF 1 FOOT.
3. BASIS OF BEARINGS: VOLUME 9834, PAGE 1757 D/R.
4. STATE PLANE COORDINATES WERE DERIVED FROM STATION SAN ANTONIO RRP PID AY2157. TO OBTAIN SURFACE COORDS. USE A SCALE FACTOR OF 0.99984. (REF: VOLUME 9543, PAGE 214).

IMPACT FEE PAYMENT DUE:

THE OWNER HAS DEFERRED ALL IMPACT FEES. ALL APPLICABLE IMPACT FEES MUST BE PAID PRIOR TO WATER METER SET AND / OR WASTEWATER SERVICE CONNECTION.

STREETSCAPE NOTE

NO BUILDING PERMIT WILL BE ISSUED FOR THIS SITE UNTIL A STREETSCAPE PLAN HAS BEEN APPROVED IN ACCORDANCE WITH SECTION 35-512 OF THE UNIFIED DEVELOPMENT CODE.



LOCATION MAP

PLAT NO. 040346

APPLEWHITE SUBDIVISION

THIS PLAT OF HAS BEEN SUBMITTED TO THE CITY OF SAN ANTONIO, TEXAS, AND HAVING BEEN REVIEWED BY THE DIRECTOR OF DEVELOPMENT SERVICES, IS HEREBY APPROVED IN ACCORDANCE WITH STATE OR LOCAL LAWS AND REGULATIONS AS INDICATED BELOW.

MINOR OR AMENDING PLAT APPROVED BY THE DIRECTOR OF DEVELOPMENT SERVICES

DATED THIS _____ DAY OF _____, A.D. 20____

BY _____
DIRECTOR OF DEVELOPMENT SERVICES

STATE OF TEXAS
COUNTY OF BEXAR

THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC, EXCEPT AREAS IDENTIFIED AS PRIVATE, FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

SUBDIVIDER/OWNER: LA NUEVA BODEGA, LLC
4115 MEDICAL DR., #200
SAN ANTONIO, TEXAS 78229

DULY AUTHORIZED AGENT
FERMIN RAJUNOV
4115 MEDICAL DR., #200
SAN ANTONIO, TEXAS 78229

STATE OF TEXAS
COUNTY OF BEXAR

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED

KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20____

STATE OF TEXAS
COUNTY OF BEXAR

NOTARY PUBLIC, BEXAR COUNTY, TEXAS

I HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND BY: _____

STATE OF TEXAS
COUNTY OF BEXAR

REGISTERED PROFESSIONAL LAND SURVEYOR

I HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT TO THE MATTERS OF STREETS, LOTS AND DRAINAGE LAYOUT, TO THE BEST OF MY KNOWLEDGE THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE UNIFIED DEVELOPMENT CODE, EXCEPT FOR THOSE VARIANCES GRANTED BY THE SAN ANTONIO PLANNING COMMISSION.

REGISTERED PROFESSIONAL ENGINEER

WASTEWATER EDU NOTE:

THE NUMBER OF WASTEWATER EQUIVALENT DWELLING UNITS (EDUs) PAID FOR THIS SUBDIVISION PLAT ARE KEPT ON FILE AT THE SAN ANTONIO WATER SYSTEM UNDER THE PLAT NUMBER ISSUED BY THE DEVELOPMENT SERVICES DEPARTMENT.

C.P.S. NOTE:

THE CITY OF SAN ANTONIO AS A PART OF ITS ELECTRIC AND GAS SYSTEM (CITY PUBLIC SERVICE BOARD) IS HEREBY DEDICATED THE EASEMENTS AND RIGHT-OF-WAY FOR ELECTRIC AND GAS DISTRIBUTION AND SERVICE FACILITIES IN THE AREAS DESIGNATED ON THIS PLAT AS "ELECTRIC EASEMENT", "GAS EASEMENT", "ANCHOR EASEMENT", "SERVICE EASEMENT", "OVERHANG EASEMENT", "UTILITY EASEMENT", AND "TRANSFORMER EASEMENT" FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REMOVING, INSPECTING, PATROLLING, AND ERECTING POLES, HANGING OR BURYING WIRES, CABLES, CONDUIT, PIPELINES OR TRANSFORMERS, EACH WITH ITS NECESSARY APPURTENANCES, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER GRANTOR'S ADJACENT LAND, THE RIGHT TO RELOCATE SAID FACILITIES WITHIN SAID EASEMENT AND RIGHT-OF-WAY AREAS, AND THE RIGHT TO REMOVE FROM SAID LAND ALL TREES OR PARTS THEREOF, OR OTHER OBSTRUCTIONS WHICH ENDANGER OR MAY INTERFERE WITH THE EFFICIENCY OF SAID LINES OR APPURTENANCES THERETO. IT IS AGREED AND UNDERSTOOD THAT NO BUILDINGS, CONCRETE SLABS, OR WALLS WILL BE PLACED WITHIN SAID EASEMENT AREAS.

ANY CPS MONETARY LOSS RESULTING FROM MODIFICATIONS REQUIRED OF CPS EQUIPMENT LOCATED WITHIN SAID EASEMENT DUE TO GRADE CHANGES OR GROUND ELEVATION ALTERATIONS SHALL BE CHARGED TO THE PERSON OR PERSONS DEEMED RESPONSIBLE FOR SAID GRADE CHANGES OR GROUND ELEVATION ALTERATION.

STATE OF TEXAS
COUNTY OF BEXAR

I _____, COUNTY CLERK OF BEXAR COUNTY, DO HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN MY OFFICE, ON THE _____ DAY OF _____, A.D. 20____, AT _____ M. AND DULY RECORDED THE _____ DAY OF _____, A.D. 20____, AT _____ M. IN THE DEED AND PLAT RECORDS OF BEXAR COUNTY, IN BOOK / VOLUME _____ ON PAGE _____ IN TESTIMONY WHEREOF, WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE, THIS _____ DAY OF _____, A.D. 20____.

COUNTY CLERK, BEXAR COUNTY, TEXAS

BY _____
DEPUTY

SUBDIVISION PLAT ESTABLISHING APPLEWHITE SUBDIVISION

98.15 ACRES OUT OF COUNTY BLOCK 4187, BEXAR COUNTY TEXAS, OUT OF THE CON. EL PASO IRRIGATION AND MANUFACTURING SURVEY NO. 92.1, ABSTRACT 169, BEING OUT OF A 111.325 ACRE TRACT RECORDED IN VOLUME 9834, PAGE 1757, REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS.



SIA ENGINEERING, INC.

438 W. MAPLEWOOD
SAN ANTONIO, TEXAS 78216-6203
(210) 341-5500 FAX (210) 308-0662

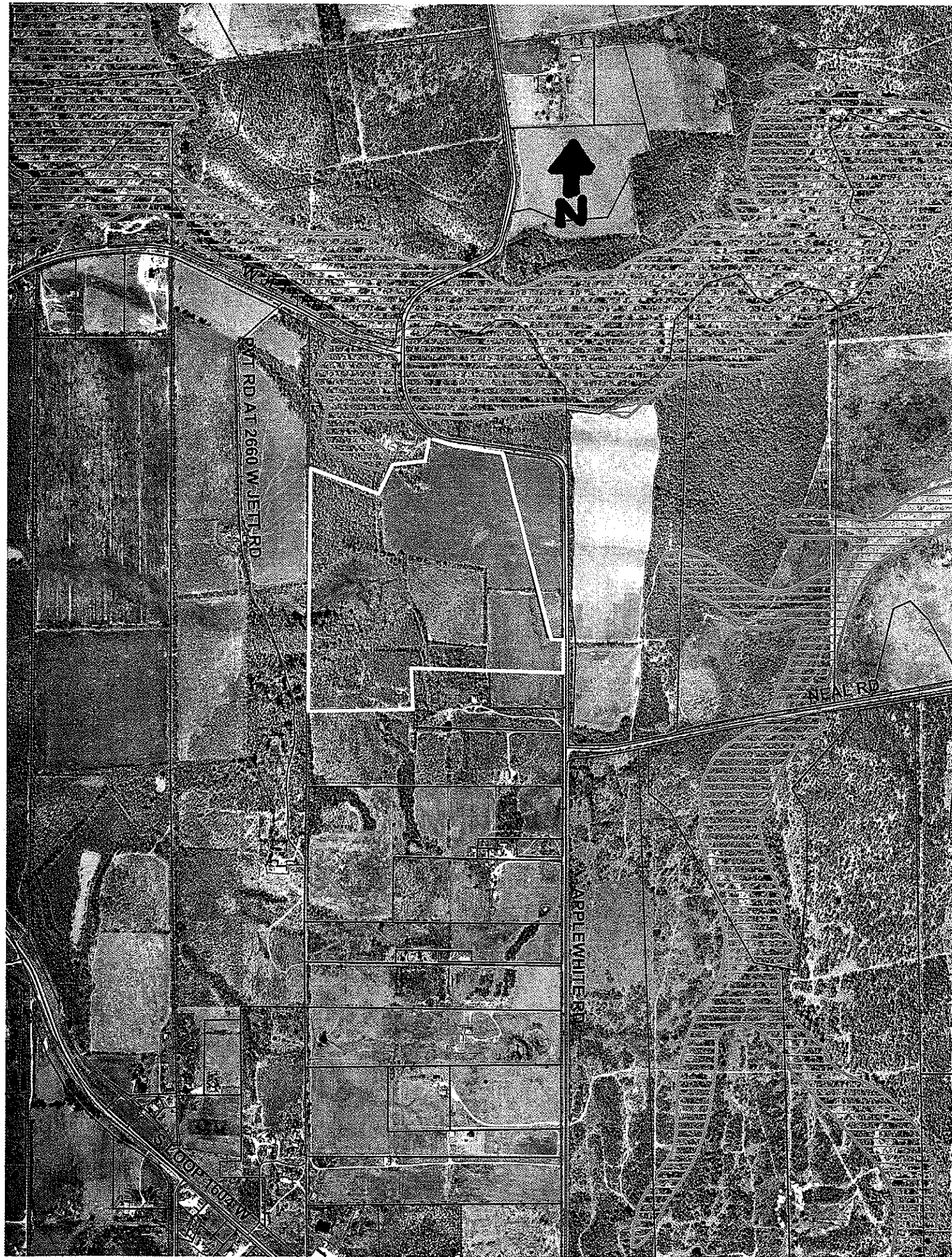
JOB NO.:
DATE: MAY 07, 2004

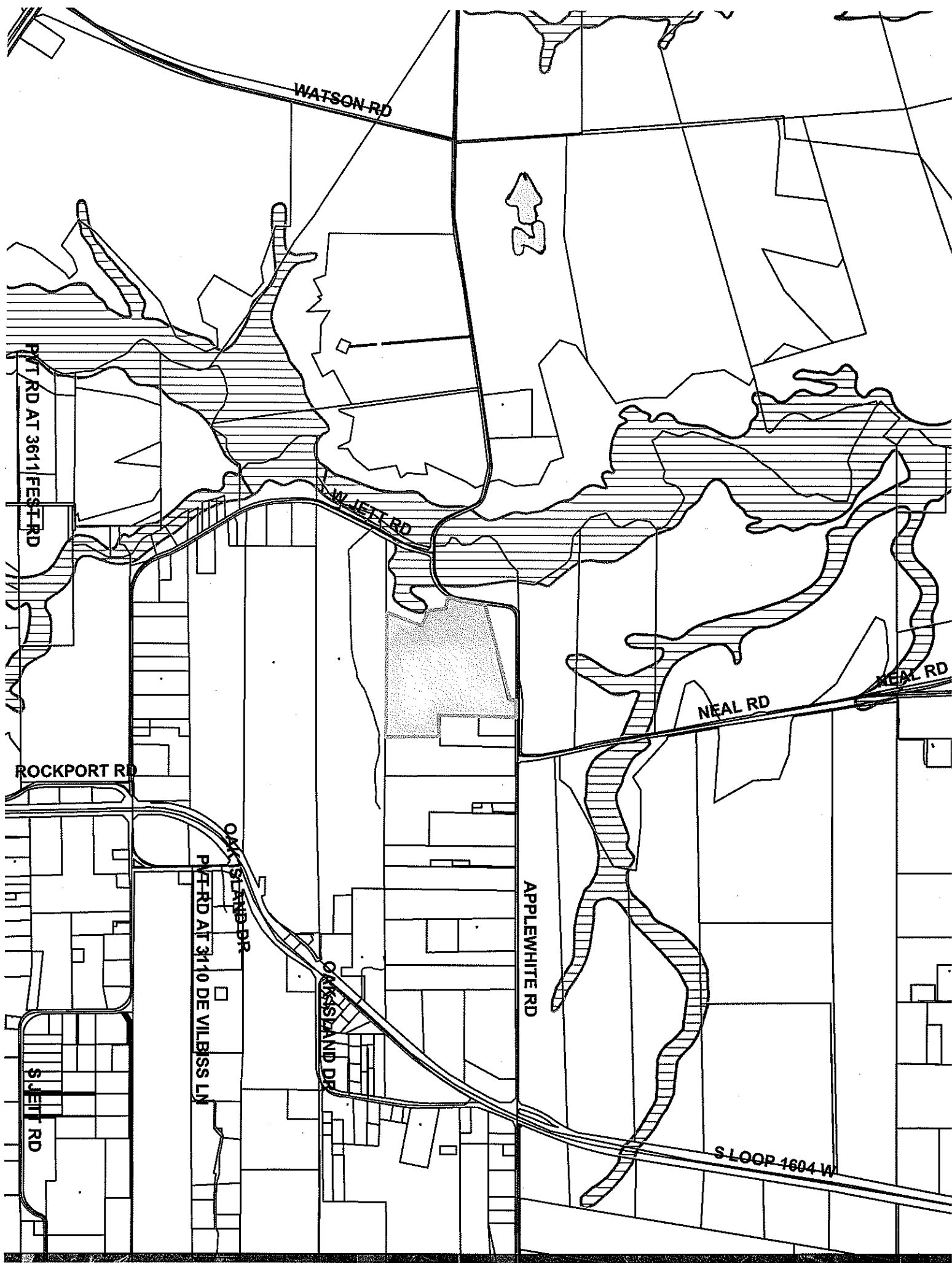
11.247 Acres

BETTY P. HOYLE
(Vol. 10012, Pg. 1238 D/R)

LOT 1
(4.922 Acres)
APPLEWHITE OFFICE WAREHOUSE
SUBDIVISION (IN PLATTING PROCESS)
BLOCK 1 C.B. 4187

APPLEWHITE RD.





WATSON RD



PTE RD AT 3611 FEST RD

W JEFF RD

ROCKPORT RD

NEAL RD

NEAL RD

APPLEWHITE RD

S LOOP 1604 W

OAK ISLAND DR

PTE RD AT 3110 DE VILBISS LN

OAK ISLAND DR

S JEFF RD



City of San Antonio

Vested Rights Permit (§§ 35-711 and 35-712 of the Unified Development Code) and Continuation of Land Use Rights (§ 43.002 of the Texas Local Government Code)

APPLICATION

Permit File: # _____
Assigned by city staff

Date: 11/29/04

☒ **Vested Rights Permit**

☒ **Continuation of Land Use**

1. All applicable information on application must be legibly printed or typed for processing. *If application is completed on behalf of the property owner please attach power of attorney or letter of agent.*
2. Please complete subject of application and attach 2 sets of all applicable documents (i.e. this application, Master Development Plan, P.U.D. plan, plat application, approved plat, building permit) along with appropriate fee.

Note: All Applications must comply with the Unified Development Code (UDC), Section 35-B124 Vested Rights Determination for the City of San Antonio.

(a) Owner/Agent: Brown, P.C. (c/o Kenneth W. Brown, AICP)

Phone: (210) 299-3704 **Fax:** (210) 299-4731

Address: 112 E. Pecan St., Suite 1490

City: San Antonio **State:** Texas **Zip code:** 78205

Engineer/Surveyor: SIA Engineering, Inc.

Address: 438 W. Maplewood

City: San Antonio **State:** Texas **Zip Code:** 78216-6203

(b) Name of Project: The Applewhite Subdivision (see attached correspondence dated November 29, 2004)

(c) (k) Site location or address of Project and Legal description: 109.38 acres generally southwest of the intersection of Applewhite Road and Jett Road, as described on COSA Plat No. 040346 (see attached correspondence).

Permit File # _____

● **MASTER DEVELOPMENT PLAN (MDP) (Formerly POADP)***

accepted prior to September 1, 1997 are subject to permit right conditions within 18 months from the effective date of the development rights ordinance (9/25/97) and projects submitted after September 1, 1997 are subject to 18 months for the POADP acceptance date.

Name: _____ # _____

Date accepted: _____ Expiration Date: _____ MDP Size: _____ acres

● **P.U.D. PLAN**

Name: _____ # _____

Date accepted: _____

● **Plat Application**

Plat Name: Applewhite Subdivision Plat # 040346 Acreage: 109.38

Date submitted: May 11, 2004 Expiration Date: November 11, 2006

(Note: Plat must be approved within 18 months of application submittal date).

● **Approved Plat**

Plat Name: _____ Plat # _____ Acreage: _____ Approval

Date: _____ Plat recording Date: _____ Expiration Date: _____
Vol./Pg. _____

(Note: If plat is not recorded within 3 years of plat approval permit rights will expire).

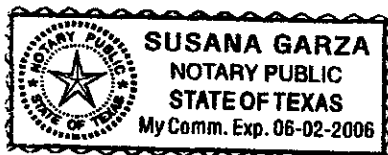
● **Other**

NOTE: Filing a knowingly false statement on this document, or any attached document, is a crime under §37.02 and §37.10 of the Texas Penal Code, punishable as a state jail felony by up to two years in jail and fine of up to \$10,000.

I hereby certify that all information this Application and the attached documents is true and correct and that it is my belief the property owner is entitled to Vested Rights for this Project.

Print name: Kenneth W. Brown, AICP Signature: [Signature] Date: 11/29/04

Sworn to and subscribed before me by Kenneth W. Brown on this 29th day of November in the year 2004, to certify which witness my hand and seal of office.



[Signature]
Notary Public, State of Texas

Council District 4 ETJ No Over Edward's Aquifer Recharge? () yes (X) no

3. What is the specific Project and the expected use(s) to be created by this Project (type of development, number of buildings, type of building(s), specific use(s) of those buildings, etc.)? *Please be aware that the city must understand exactly what this Project is expected to accomplish in order to evaluate this application.*

(d) Total land use, in square feet: 4,764,593 sq. ft.(e) Total area of impervious surface, in square feet: 3,335,215 sq. ft.(f) Number of residential dwellings units, by type: 350 single-family lots on 51.54 acres(g) Type and amount of non-residential square footage: 453,024 sq. ft. of commercial/industrial uses(h) Phases of the development, (If Applicable): N/A

4. What is the date the applicant claims rights vested for this Project? May 11, 2004

(i) Verified or certified copies of all development permits, contracts, appraisals, reports, correspondence, letters, or other documents or materials upon which the Applicant's claim for vested rights or equitable estoppel is based;

In addition to the required processing as set forth above, an Application for Consent Agreement Approval shall include, but shall not be limited to the following: a timing and phasing plan for the proposed development; a plan for the provision of public facilities and services to the proposed development, by phase; the conditions under which the proposed development will be authorized to proceed; and the conditions under which approvals or permits will lapse or may be revoked. A document shall be considered "verified" or "certified", whether an original or a copy, if it is signed by the official with decision making authority for the permit application."

- 4 a. What, if any, construction or related actions have taken place on the property since that date?

See attached correspondence.

5. By what means does the applicant claim rights vested for this Project? *Please specify all that may be applicable.*

• **PERMIT**

Type of Permit: _____ Date of Application: _____

Permit Number: _____ Date issued: _____

Expiration Date: _____ Acreage: _____

City of San Antonio use

Permit File: # 05-12-033

Assigned by city staff

Date: 12/21/04

☒ **Approved (for continuation of Land Use)**

☐ **Disapproved**

Review By:  Date: _____
Development Services Department

Comments: As of May 11, 2004 for continuation of land uses as depicted on the plat application (Plat ID # 040346) consisting of 350 single-family lots on 51.54 Acres, 7 Non-Single Family Lots on 10.40 Acres, 11.22 Acres of Parks and 25 Acres of land for streets, for a total of 98.16 Acres.

This is approval of Continuation of Land-Use Rights pursuant to the applicable provisions of § 43.002 of the Texas Local Government Code for approximately 98.16 acres as depicted in the plat application.

(B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances;

(7) a regulation relating to the sale and use of fireworks; or

(8) a regulation relating to the discharge of firearms.

Added by Acts 1999, 76th Leg., ch. 1167, § 2, eff. Sept. 1, 1999.

Michael Herrera

From: Andrew Martin
Sent: Monday, December 20, 2004 4:25 PM
To: Michael Herrera
Cc: Florencio Pena; Roderick Sanchez; Norbert Hart
Subject: Applewhite Subdivision 43.002 claim

Importance: High

Michael, as we discussed on Thursday, December 9, and again this past Friday, December 17, here is my understanding of the facts concerning the proposed "Applewhite" subdivision. The city accepted a plat application for approximately 109 acres of land generally southwest of the intersection of Applewhite Road and Jett Road on or about May 11, 2004. We cashed the check tendered with the plat application as a filing fee on or about May 11, 2004, whether or not we communicated to the engineer that the check was not sufficient to pay the entire fee. We assigned the application a plat application number (#040346) and failed to provide any written notice to the applicant that the application was not accepted for processing and filing on or shortly after May 11, 2004.

Based on those facts, my advice is that applicant is more likely than not to convince a court that an application was filed with the city before annexation proceedings were instituted, and that the planned use otherwise meets the criteria established by the Legislature under Sec. 43.002 to allow the landowner to begin to use land "in the manner that was planned for the land . . ." as evidenced by the plat application.

My further advice is that you issue in whatever form you feel is appropriate a written confirmation that the planned land use meets the criteria of Sec. 43.002 and that the city intends to comply with the restrictions established by that statute.

Please let me know if you need additional information. I've been receiving daily inquiries by and on behalf of the landowner, and am concerned that the city's failure to respond to the request for confirmation will lead to litigation.

Andy



COSADOCS-#2720
06-v1-Vested_Rig...

Texas Local Government Code, § 43.002. CONTINUATION OF LAND USE. (a) A municipality may not, after annexing an area, prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

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(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances;

(7) a regulation relating to the sale and use of fireworks; or

(8) a regulation relating to the discharge of firearms.

Dustin Finley

From: Michael Herrera
Sent: Tuesday, December 21, 2004 9:28 AM
To: Dustin Finley
Subject: FW: Applewhite Subdivision 43.002 claim

Importance: High

FYI

Michael O. Herrera
Special Projects Coordinator
Development Services Department
Master Development Plan
mherrera@sanantonio.gov

-----Original Message-----

From: Andrew Martin
Sent: Monday, December 20, 2004 4:25 PM
To: Michael Herrera
Cc: Florencio Pena; Roderick Sanchez; Norbert Hart
Subject: Applewhite Subdivision 43.002 claim
Importance: High

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Added by Acts 1999, 76th Leg., ch. 1167, § 2, eff. Sept. 1, 1999.